

The ICO's regulatory approach

Our role as an independent regulator is to act in the public interest, and our approach has always been to be a pragmatic and proportionate regulator.

We must continue to focus our priorities and our resourcing, so that we retain the right balance, focusing on those issues likely to cause the greatest public harm.

We understand that organisations are trying to operate during uncertain and challenging times, and we will take into account the context the organisations we regulate are operating in, whilst acknowledging the important role that people's information rights continue to have, both around privacy protections and transparency of decision making by public bodies.

Background:

We are committed to an empathetic and pragmatic approach, focusing on issues of greatest risk, and will demonstrate this through our actions:

- We will continue to recognise the rights and protections granted to people by the law, both around their personal information and their right to freedom of information. We recognise that confidence in how personal data is used and safeguarded is a key determining factor in how willing the public are to engage with initiatives that use personal data and publicly available information.
- We will focus our efforts on the most serious risks and greatest threats to the public.
- We recognise that organisations are having to react quickly to new risks and initiatives; we will assist organisations by providing advice and guidance on data protection laws and how to meet their obligations in response to new requirements and initiatives.
- We will take firm action against those looking to exploit the public through nuisance calls or by misusing personal information.
- We will be flexible in our approach, taking into account the impact of

the potential economic or resource burden our actions could place on organisations, particularly those engaged in tackling unprecedented circumstances or supporting vulnerable people.

- We will continue to provide effective support to businesses and public authorities, focusing on how we can accelerate and expand our sandbox, provide more upstream advice, and better support innovation.

Engagement with the public and organisations:

We remain committed to continuing to support the public and organisations through this period.

- We will continue to identify and fast track advice, guidance or tools that will have the most impact in helping public authorities and businesses. This work will build on the success of our information hubs, accountability framework and self-assessment FOI toolkit.
- We will continue to ensure that the public can raise complaints with us about information rights concerns; and we will use insight from our public advice services, complaints, investigations and horizon scanning to inform how we can engage with the public to better uphold their privacy rights.
- We will continue to develop further regulatory measures aimed at supporting economic growth and recovery including our advice services and sandbox.
- We expect that organisations should be able to deal with complaints they receive from members of the public. Where organisations have a backlog of complaints, we expect them to have robust recovery plans in place to ensure they reduce these backlogs within a reasonable timeframe.
- We will continue to proactively engage with businesses and public authorities to better understand how they can deal with information rights complaints in a timely manner.

Regulatory action:

We will continue to act proportionately and in line with the ICO's [Regulatory Action Policy](#) so that we balance the benefits to the public and the dissuasive effect of taking regulatory action against the effect of doing so on regulated organisations, taking into account the particular challenges being faced by organisations and the UK economy at this time.

- Organisations should continue to report personal data breaches to us, without undue delay. This should be within 72 hours of the organisation becoming aware of the breach.
- We will continue to prioritise investigations that present the greatest harm to the public. Where we conduct investigations, we will seek to understand the individual challenges faced by organisations and will consider the impact and the present economic situation on the organisation.
- We will continue to take a strong regulatory approach against any organisation breaching data protection laws aimed at taking advantage of current circumstances.
- As set out in the Regulatory Action Policy, before issuing fines we consider the economic impact and affordability.
- We will undertake risk-based audit work on an offsite basis recognising the restrictions that remain in force.

Freedom of Information Act and Environmental Information Regulations:

We continue to adopt an empathetic and pragmatic approach in regulating access to information regulation, recognising the importance of transparency, especially where people have seen their civil liberties impacted, and also the potential impact on public authorities' timeliness in supplying information in current circumstances.

- We will continue to accept new information access complaints. We will take a pragmatic approach to resolving these complaints, while reflecting that the majority of public authorities have told us that their capacity has increased.
- Where public authorities have complaint backlogs, we expect organisations to establish recovery plans focused on bringing the organisation back within compliance with the Freedom of Information Act within a reasonable timeframe.
- We will continue to encourage public authorities to be transparent and proactively publish information they know will be of importance to their communities, both in relation to their handling of the pandemic and their usual functions.
- We will expect organisations to appreciate the ongoing importance of proper record keeping during a period that will be subject to future public scrutiny. The Codes of Practices at sections 45 and 46 of the Freedom of Information Act (2000) make clear the expectations placed upon public authorities in respect of both discharging their responsibilities and record keeping in general and we will continue to expect that the standards in place are maintained.